

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

JAMES KEVIN RUPPERT,

Plaintiff,

vs.

No. CIV 09-138 MV/LFG

ERASMO BRAVO, et al.,

Defendants.

ORDER DENYING PLAINTIFF'S MOTION TO PROCEED *IN FORMA PAUPERIS*
AND DENYING MOTION TO AMEND COMPLAINT FOR ADDITIONAL PARTIES

THIS MATTER comes before the Court on Plaintiff's Motion to Proceed *In Forma Pauperis* [Doc. 32], and Plaintiff's Motion to Amend Complaint for Additional Parties [Doc. 33], both filed on July 10, 2009. No response is necessary to either motion.

Pro se Plaintiff James Kevin Ruppert ("Ruppert") filed a Complaint [Doc. 1] on February 11, 2009, alleging various violations of his constitutional rights by several Defendants while he was incarcerated at the Guadalupe County Correctional Facility in Santa Rosa, New Mexico. On that same date, he also filed a Motion for Leave to Proceed *In Forma Pauperis* [Doc. 2], which motion was granted on February 18, 2009 [Doc. 5].

On June 1, 2009, Ruppert filed a new Motion to Proceed *In Forma Pauperis* [Doc. 23], in which he acknowledged that he had already been authorized to proceed *in forma pauperis* but asked the Court to issue an order for service of process on five specifically named Defendants. Before that Motion could be resolved, Chief United States District Judge Martha Vázquez entered an Order [Doc. 22] resulting from a frivolousness review under 18 U.S.C. § 1915, in which she dismissed Ruppert's claims against all of the named Defendants. However, in that same Order, Judge Vázquez also permitted Ruppert to file an Amended Complaint to state more clearly his claim of retaliation for exercise of his First Amendment rights and to name a specific Defendant or Defendants in connection with that claim. At present, no Defendants have been served with process in this case.

On July 8, 2009, the undersigned Chief Magistrate Judge entered an Order [Doc. 31] denying as moot Ruppert's June 1 Motion insofar as it requested service of process on the Defendants who had been dismissed from the action. Ruppert was also given an extension of time to file his Amended Complaint.

On July 10, 2009, Ruppert filed his Amended Complaint [Doc. 34], along with a document titled "Deposition Insert" [Doc. 35], which the Court will consider as part of the Amended Complaint. Also on July 10, Ruppert filed a Motion to Amend Complaint for Additional Parties [Doc. 33], and yet another Motion to Proceed *In Forma Pauperis* [Doc. 32]. The Court will deny the latter two motions.

The Motion to Amend [Doc. 33] is unnecessary. The Court already gave Ruppert leave to file an Amended Complaint, naming any Defendants against whom retaliation claims are asserted. Ruppert has now filed the Amended Complaint, and the Court will conduct a frivolousness review of that Complaint, as required under 28 U.S.C. § 1915. The Motion to Proceed *In Forma Pauperis* is also unnecessary. As Ruppert has been advised, he has already been granted *in forma pauperis* status. This status entitles him to free service of process on any Defendants, provided his claims against them survive the Section 1915 review. Once the Court has completed that review, it will issue an Order which will include a directive for service of process on all Defendants who remain in the case. Ruppert need not continue to file motions asking for such service of process. These unnecessary motions and continued filings and letters from Ruppert require the Court's time and attention which can better be utilized by focusing on the merits of his claims.

IT IS THEREFORE ORDERED that Plaintiff's Motion to Proceed *In Forma Pauperis* [Doc. 32] is denied as moot.

IT IS FURTHER ORDERED that Plaintiff's Motion to Amend Complaint for Additional Parties [Doc. 33] is denied.



Lorenzo F. Garcia
Chief United States Magistrate Judge